

ACCOUNTING PROCEDURE

TOPIC: Section 2--Cash and Cash Equivalents 8.0	EFFECTIVE DATE: 8/2/05
TITLE: Financial Institutions Asserting Holder in Due Course	REVISION DATE:
AUTHORIZED BY: Cheryl Thompson, Financial Manager	PAGE 1 OF 2

BACKGROUND

Occasionally, the Department of Health and Family Services (DHFS) stops payment on one of its checks at the request of the payee. This generally occurs when checks have been lost or stolen. Replacement checks are issued only after the State's bank verifies that the check has not been paid.

If the check is subsequently presented to the State Bank for payment, the State Bank will return the check through the banking system noting that it is being returned as a stopped payment. In some cases, the financial institution accepting the check for deposit or cashing the check or an intermediate party (such as a check cashing service) may assert a protection under holder in due course. Under State law, holder in due course cannot be asserted against checks issued by the State of Wisconsin. The Financial Institution or intermediate party must recover from the party cashing or depositing the check with them.

The sample letter shown in Attachment 1 should be issued to any financial institution that is asserting holder in due course.

ATTACHMENTS

1. Sample letter issued to Financial Institutions Asserting Holder in Due Course

CONTACTS

Amy McDowell, Chief
Program & Federal Accounting
(608) 266-2708

Cheryl Thompson, Financial Manager
Bureau of Fiscal Services
(608) 266-2019



State of Wisconsin

Department of Health and Family Services

DIVISION OF MANAGEMENT AND TECHNOLOGY

BUREAU OF FISCAL SERVICES

1 WEST WILSON STREET

P.O. BOX 7853

MADISON WI 53707-7853

Telephone: 608-267-7104

FAX: 608-264-9874

dhfs.wisconsin.gov

Jim Doyle
GovernorHelene Nelson
Secretary

June 2, 2005

ABC Bank
123 Main Street
Madison, WI 53707

Dear Sir/Madam,

Recently, a State of Wisconsin check was dishonored by US BANK, Milwaukee and returned to your institution. The check was not honored because the payee on the check requested a stop payment. Due to the statutory provisions listed below, the person(s) responsible for the loss incurred by your institution, is the payee listed on the face of the check, providing their endorsement appears on the check.

Section 20.912(5), Stats., provides:

LOST, STOLEN OR DESTROYED CHECKS, SHARE DRAFTS AND OTHER DRAFTS: If any check, share draft or other draft drawn and issued by the secretary of administration is lost, stolen or destroyed and the bank, savings and loan association, savings bank or credit union on which the check; share draft or other draft is drawn has been notified to stop payment thereon, the secretary of administration may, after acknowledgment by the bank, savings and loan association, savings bank or credit union that the check, share draft or other draft has not been paid, issue a replacement check, share draft or other draft and thereafter the secretary of administration shall be relieved from all liability thereon.

This specific provision controls over general provisions under the uniform commercial code, and by virtue of it the State of Wisconsin is not liable on the original check on which payment was stopped. The person who is responsible for check fraud is the person who fraudulently presented this check. If you wish to pursue legal action, you will need to contact your local law enforcement agency.

Sincerely,

A handwritten signature in cursive script that reads "Cheryl Thompson".

Cheryl Thompson
Financial Manager

Attachment